



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

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*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

March 27, 2020

**BY ECF / EMAIL**

Honorable Edgardo Ramos  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, New York 10007

**Re: *United States v. Mark S. Scott*, S10 17 Cr. 630 (ER)**

Dear Judge Ramos:

The Government submits this letter in response to the defendant's March 24, 2020 motion, which seeks reconsideration of the Court's March 12, 2020 Order remanding Mark Scott pending his May 26, 2020 sentencing (the "Reconsideration Motion"). For the reasons described below, as well as those set forth in the Government's letter dated March 11, 2020 (the "Government's March 11 Letter"), the defendant cannot meet his burden to show by clear and convincing evidence that he does not pose a risk of flight and a financial danger to the community. *See* 18 U.S.C. § 3143(a). As the Court has previously found, Scott is "not only . . . a flight risk but is an economic danger to the community." (March 12, 2020 Bail Hearing Transcript ("Tr.," attached hereto as Exhibit A) at 16). The Court should accordingly deny the defendant's Reconsideration Motion and order that the defendant continue to remain detained pending sentence in this case.

**A. Legal Standard**

"Post-conviction, a defendant no longer has a substantive constitutional right to bail pending sentencing," because "the defendant is no longer entitled to the presumption of innocence." *United States v. Madoff*, 316 F. App'x 58, 59 (2d Cir. 2009) (internal quotations omitted). "In general, following a [conviction], there is 'a presumption in favor of detention.'" *United States v. Nouri*, No. 07 CR. 1029DC, 2009 WL 2924334, at \*2 (S.D.N.Y. Sept. 8, 2009) (quoting *United States v. Abuhadra*, 389 F.3d 309, 319 (2d Cir. 2004)). "Unless the applicable Guidelines would not call for a term of imprisonment, the court 'shall order that a person who has been found guilty of an offense and who is awaiting imposition . . . of sentence . . . be detained.'" *Nouri*, 2009 WL 2924334, at \*2 (quoting 18 U.S.C. § 3143(a)(1)). "Accordingly, § 3143(a)

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places the burden on a defendant to demonstrate by clear and convincing evidence that he is not likely to flee or pose a danger to the safety of others or the community.” *Madoff*, 316 F. App’x at 59.

In addition, similar to the standard for bail pending sentence set forth in 18 U.S.C. § 3143(a)(1), 18 U.S.C. § 3148(b) provides that “[i]f there is probable cause to believe that, while on release, the person committed a Federal, State, or local felony, a rebuttable presumption arises that no condition or combination of conditions will assure that the person will not pose a danger to the safety of any other person or the community.”

## **B. Scott’s Challenges to the Bases for His Detention Are Meritless**

In his Reconsideration Motion, Scott raises no serious dispute regarding the key facts that show he is both a risk of flight and an economic danger to the community. Those facts include, among others, the following:

1. Scott, who faces a Guidelines sentence of 50 years’ imprisonment, is a dual German citizen. If Scott flees to Germany to avoid sentencing in this case, Scott cannot be extradited.

2. While released on bail, in or about July 2019, Scott sold a 2016 Porsche (the “2016 Porsche”) for \$250,000. Scott did so with full knowledge that he had purchased the 2016 Porsche with OneCoin victim money and that the 2016 Porsche was subject to both a seizure warrant—which was produced to the defendant in discovery in October 2018—and a Forfeiture Bill of Particulars (the “Forfeiture BOP”) —which was filed with the Court and served on the defendant in February 2019. (*See* Tr. at 15 (Court finding that “Scott continues to use some of these assets which are subject to forfeiture, that were subject to court orders, as though they were his own, after the bail conditions were imposed, after sitting through trial, after being convicted.”)).

3. While released on bail Scott also used \$300,000 in OneCoin victim proceeds that were subject to a restraining order to pay for renovations to his property located at 31 Dale Avenue, Hyannis Port, Massachusetts (the “31 Dale Property”).<sup>1</sup> Furthermore, Scott mortgaged the 31 Dale Property—which he had also purchased with OneCoin proceeds,<sup>2</sup> and which was also subject to the Forfeiture BOP—to a creditor, specifically, a contracting business performing work on the 31 Dale Property.

4. Marieta Halle, the suretor who had posted \$750,000 as security for Scott’s bond, “has a complete lack of confidence in Mr. Scott’s ability and willingness to continue to appear as required to court,” and was therefore appropriately released by the Court as a suretor for Scott’s

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<sup>1</sup> The \$300,000 wire transfer is documented in a wire instruction attached as Exhibit I to the Government’s March 11 Letter. The MSS International Consultants (BVI) Ltd. bank account held at First Caribbean International Bank in the Cayman Islands—from which Scott sent the \$300,000 wire—was specifically identified in the Government’s September 4, 2018 restraining order. (*See* Reconsideration Motion, Ex. B, ¶ (a)(iii)). That restraining order was produced provided to the defendant in discovery in September 2018.

<sup>2</sup> *See* GX 2617-D, attached to the Government’s March 11 Letter as Exhibit H.

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bond. (Tr. 14). Scott, accordingly, no longer has a third-party suretor to secure his bond. Further, while on bail, Scott induced Halle to provide him with a personal loan of \$500,000, and falsely represented that he would repay her by February 29, 2020, which he has failed to do. (See Tr. 14-15 (noting that regardless of whether Scott's failure to pay back Ms. Halle the \$500,000 as he promised her he would amount to a separate crime, "Scott has again and again failed to meet the promises that he made to her.")). Scott also offered to mortgage another property that he had invested in using OneCoin victim funds and which was subject to the Forfeiture BOP—specifically, the property located at 105 Sunset Lane, Barnstable, MA—to support a promissory note to Ms. Halle.

In his Reconsideration Motion, Scott does not contest these key facts, but instead offers a litany of excuses for his conduct. For example, as to Scott's sale of the 2016 Porsche, Scott attempts to justify the sale by claiming that "Scott was *presumed innocent* when he sold the car in June 2019." (Reconsideration Motion at 4) (emphasis in original). Scott's excuse entirely misses the point—at trial, the Government proved beyond a reasonable doubt that Scott knew that the 2016 Porsche was purchased with the proceeds of the OneCoin fraud scheme at the time he purchased it in 2016. (See GX 2619-C). Accordingly, Scott's sale of the 2016 Porsche constituted a serious federal felony that Scott committed *while on bail*—specifically, Scott "knowingly engage[d] . . . in a monetary transaction in criminally derived property of a value greater than \$10,000" in violation of 18 U.S.C. § 1957. Scott's additional excuse that the Government did not include the 2016 Porsche in the Post-Indictment Restraining Order is beside the point. As noted above, the 2016 Porsche was the subject of a seizure warrant *and* the Forfeiture BOP, both of which were produced to the defendant. Accordingly, there is no argument that Scott was not notified that the 2016 Porsche was subject to seizure and forfeiture.

Scott raises similar excuses to justify his other conduct while out on bail, including a separate violation of 18 U.S.C. § 1957 through the use of \$300,000 in OneCoin victim proceeds to pay for renovations to the 31 Dale Property (which was purchased with fraud proceeds as well). Specifically, Scott asserts that because the payment was intended to improve the property, his use of those funds, which were criminally derived and subject to forfeiture, should be excused. Scott's argument misses the mark. As with Scott's sale of the 2016 Porsche, Scott's payment for home renovations with OneCoin victim funds shows that "Scott continues to use some of these assets which are subject to forfeiture, that were subject to court orders, as though they were his own, after the bail conditions" and demonstrate that he is "economic danger to the community." (Tr. 15-16). Scott's self-serving excuses for why he used the funds are also inconsistent with his use of the proceeds from the sale of the 2016 Porsche, which he attempted to use to buy another Porsche for *himself*. Furthermore, Scott's excuses do nothing to address the risks posed by Scott if released, including that he will continue to flout the orders of this Court, commit new crimes while on bail, and dissipate assets that are subject to court order and should be used to pay back the millions of victims of the OneCoin fraud scheme.

Scott also asserts that it would be appropriate to use his property located at 600 Coral Way, Unit 12, Florida (the "Florida Property") as a replacement for Ms. Halle's \$750,000 cash security. Scott is mistaken. As Scott notes in his Reconsideration Motion, *see* footnote 5, the Government showed at trial that the mortgage for the Florida Property was paid off on October 16, 2016, through the use of \$1,000,794.66 in OneCoin fraud scheme proceeds. (See GX 2617, attached

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hereto as Exhibit B). For that very reason, the Florida Property is also listed in the Government's Forfeiture BOP. (See Dkt. Entry 46, ¶ cc). In essence, Scott is asking the Court that to allow him to be released on a bond that is secured by a property that was paid for in substantial part with OneCoin victim proceeds. This would be completely inappropriate and would give Scott no real incentive not to flee, given that the only resulting harm if he did flee would be the forfeiture of a property that was paid for by fraud scheme proceeds and is therefore subject to forfeiture as part of his sentence in this case.

### C. The COVID-19 Pandemic Does Not Justify Scott's Release At This Time

Scott's final argument in his Reconsideration Motion is that he should be released as a result of the COVID-19 pandemic, and his alleged vulnerability based on certain pre-existing health conditions. However, as described below, the Bureau of Prisons ("BOP") is equipped to address the current public health crisis. Furthermore, the defendant has provided limited support for his claim that his health condition renders him especially vulnerable to COVID-19. Specifically, Scott relies on a vague one-page doctor's letter stating that Scott "has hypertension and was in the process of ongoing a cardiac workup. He is considered at high risk for COVID19 complications, and therefore is considered a high risk patient," and a prior letter from the same doctor recommending that Scott not travel to New York in light of his history of hypertension and obstructed sleep apnea. (See Reconsideration Motion, Exs. F and G). These two letters provide an insufficient record to warrant Scott's release on bail. Furthermore, the Government would note that at the time of this submission, there are no confirmed COVID-19 cases in Miami FDC, where Scott is currently being housed.<sup>3</sup>

Furthermore, contrary to Scott's assertions in his Reconsideration Motion, the BOP is prepared to handle the risks posed by coronavirus/COVID-19, as with other infectious diseases and other medical conditions. Since at least October 2012, BOP has had a Pandemic Influenza Plan in place. See *BOP Health Management Resources*, available at [https://www.bop.gov/resources/health\\_care\\_mngmt.jsp](https://www.bop.gov/resources/health_care_mngmt.jsp).<sup>4</sup> Moreover, beginning approximately two months ago, in January 2020, BOP began to plan specifically for the coronavirus/COVID-19 to ensure the health and safety of inmates and BOP personnel. See *Federal Bureau of Prisons COVID-19 Action Plan*, available at [https://www.bop.gov/resources/news/20200313\\_covid-19.jsp](https://www.bop.gov/resources/news/20200313_covid-19.jsp). As part of its Phase One response to coronavirus/COVID-19, BOP began to study "where the infection was occurring and best practices to mitigate transmission." *Id.* In addition, BOP stood up "an agency task force" to study and coordinate its response to coronavirus/COVID-19, including using "subject-matter experts both internal and external to the agency including guidance and directives from the [World Health Organization (WHO)], the [Centers for Disease Control and

<sup>3</sup> The Government would have no objection to Scott remaining in Miami FDC pending his sentencing, which is scheduled for May 26, 2020.

<sup>4</sup> See also *Module 1: Surveillance and Infection Control*, available at [https://www.bop.gov/resources/pdfs/pan\\_flu\\_module\\_1.pdf](https://www.bop.gov/resources/pdfs/pan_flu_module_1.pdf); *Module 2: Antiviral Medications and Vaccines*, available at [https://www.bop.gov/resources/pdfs/pan\\_flu\\_module\\_2.pdf](https://www.bop.gov/resources/pdfs/pan_flu_module_2.pdf); *Module 3: Health Care Delivery*, available at [https://www.bop.gov/resources/pdfs/pan\\_flu\\_module\\_3.pdf](https://www.bop.gov/resources/pdfs/pan_flu_module_3.pdf); *Module 4: Care for the Deceased*, available at [https://www.bop.gov/resources/pdfs/pan\\_flu\\_module\\_4.pdf](https://www.bop.gov/resources/pdfs/pan_flu_module_4.pdf).

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Prevention (CDC)], the Office of Personnel Management (OPM), the Department of Justice (DOJ) and the Office of the Vice President. BOP's planning is structured using the Incident Command System (ICS) framework." *Id.*

On March 13, 2020, BOP, after coordination with DOJ and the White House, implemented its Phase Two response "in order to mitigate the spread of COVID-19, acknowledging the United States will have more confirmed cases in the coming weeks and also noting that the population density of prisons creates a risk of infection and transmission for inmates and staff." *Id.* BOP's national measures are intended to "ensure the continued effective operations of the federal prison system and to ensure that staff remain healthy and available for duty." *Id.* For example, BOP (a) suspended social visits for 30 days (but increased inmates access to telephone calls); (b) suspended legal visits for 30 days (with case-by-case accommodations); (c) suspended inmates movement for 30 days (with case-by-case exceptions, including for medical treatment); (d) suspended official staff travel for 30 days; (e) suspended staff training for 30 days; (f) restricted contractor access to BOP facilities to only those performing essential services, such as medical treatment; (g) suspended volunteer visits for 30 days; (h) suspended tours for 30 days; and (i) generally "implement[ed] nationwide modified operations to maximize social distancing and limit group gatherings in [its] facilities." *Id.* In addition, BOP has implemented screening protocols for both BOP staff and inmates, with staff being subject to "enhanced screening" and inmates being subject to screening managed by its infectious disease management programs. *Id.* As part of BOP's inmate screening process, (i) "[a]ll newly-arriving BOP inmates are being screened for COVID-19 exposure risk factors and symptoms"; (ii) "[a]symptomatic inmates with exposure risk factors are quarantined; and (iii) "[s]ymptomatic inmates with exposure risk factors are isolated and tested for COVID-19 per local health authority protocols." *Id.*

Finally, the defendant's reliance on *United States v. Stephens*, No. 15-CR-95 (AJN) (S.D.N.Y. Mar. 19, 2020) (ECF Doc. No. 2798), is misplaced. (*See* Reconsideration Motion, Ex. A). In *Stephens*—a violation of supervised release proceeding involving a defendant accused of possessing a firearm while on supervised release—Judge Nathan released a previously detained defendant after finding that "the strength of the primary evidence relied upon by the Government to demonstrate the danger the Defendant poses to the community has been undermined by new information not available to either party at the time of [the prior detention] hearing." *Id.* at 1-2. Specifically, while the Government had previously argued that the defendant had possessed a loaded firearm in proximity to drugs, news facts showed that the arresting officer had "identified a different individual as holding the bag that contained the firearm." *Id.* at 2. There are no comparable changed circumstances in the instant case that suggest that Scott is less of a flight risk or danger to the community.

As for the risks to the defendant from the COVID-19 pandemic, Judge Nathan specifically declined to rule on whether the health risks from the pandemic presented a "compelling reason necessitating [the defendant's] release." *Id.* at 6 n.3. Rather, the Court found release appropriate under Section 3142(i) because the defendant had proffered specific, un rebutted facts demonstrating that the precautions taken by the BOP were impeding his ability to prepare for a hearing scheduled for March 25, 2020.<sup>5</sup> *Id.* at 5-6. Here, by contrast, for all the reasons set forth

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<sup>5</sup> Moreover, it does not appear that Section 3142(i), which is part of the bail statute addressing

## CONCLUSION

By: /s/  
Christopher J. DiMase / Nicholas Folly/  
Julieta V. Lozano  
Assistant United States Attorneys /  
Special Assistant United States Attorney  
(212) 637-2433 / (212) 637-1060/  
(212) 335-4025

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# **EXHIBIT A**



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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

17 Cr. 630 (ER)

5 MARK S. SCOTT,

6 Defendant.

7 -----x

Bail Hearing

8 March 12, 2020  
9 4:30 p.m.

10 Before:

11 HON. EDGARDO RAMOS,

12 District Judge

13 APPEARANCES

14 GEOFFREY S. BERMAN

15 United States Attorney for the  
16 Southern District of New York

BY: CHRISTOPHER J. DiMASE

16 NICHOLAS S. FOLLY

Assistant United States Attorneys

17 BY: JULIETA V. LOZANO,

Special Assistant United States Attorney

18 COVINGTON & BURLING LLP

19 Attorneys for Defendant

BY: ARLO DEVLIN-BROWN

20 KATRI A. STANLEY

21 DAVID M. GARVIN (via telephone)

Attorney for Defendant

22 ALSO PRESENT:

23 NEIL G. TAYLOR

24 Attorney for Movant Halle

25 JOHN MOSCATO, Pretrial Services



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1 (Case called)

2 THE DEPUTY CLERK: Counsel, please state your name for  
3 the record.

4 MR. DiMASE: Good afternoon, your Honor. Christopher  
5 DiMase for the government. I'm joined at counsel table by  
6 AUSAs Nick Folly and Julieta Lozano, who is actually a Special  
7 Assistant U.S. Attorney, as this court knows, and also by John  
8 Moscato from the United States Pretrial Services Office.

9 THE COURT: Good afternoon.

10 MR. DEVLIN-BROWN: Good afternoon, your Honor. Arlo  
11 Devlin-Brown and Katri Stanley for Mr. Scott. I believe  
12 co-counsel David Garvin is appearing by telephone along with  
13 Mark Scott pursuant to the court's order that they can distance  
14 themselves.

15 THE COURT: Okay. Mr. Garvin?

16 MR. GARVIN: Good afternoon, your Honor. I am present  
17 and Mark Scott is also present, sitting next to me.

18 THE COURT: And good afternoon to you both. You know,  
19 Mr. Garvin, you made the front page out here.

20 MR. GARVIN: Unfortunately, yes.

21 THE COURT: And?

22 MR. TAYLOR: Good afternoon, Judge Ramos Neil Taylor  
23 on behalf of Marietta Halle.

24 THE COURT: I'm sorry, how do you pronounce the last  
25 name?

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1 MR. TAYLOR: "Haley."

2 THE COURT: "Haley."

3 So this matter is on for a bond hearing, and this bond  
4 hearing was initiated by a letter that I received from  
5 Mr. Taylor on behalf of Ms. Halle on February 6, 2020.  
6 Mr. Taylor, did you wish to put on the records the reasons  
7 therefor?

8 MR. TAYLOR: We will travel, with the court's  
9 permission, on the affidavit that was filed.

10 THE COURT: Very well. There was an affidavit that  
11 was filed by Ms. Halle, and I don't know whether a copy has  
12 been provided to Mr. Devlin-Brown at this point.

13 MR. DiMASE: That's fine, your Honor. We spoke with  
14 Mr. Taylor prior to today's proceeding and asked him if he  
15 would permit us to turn it over just before the proceeding, and  
16 he preferred the court to decide whether or not that should be  
17 disclosed. I don't know if he wishes to be heard on that.

18 MR. TAYLOR: So thank you, Judge.

19 So the court knows, Ms. Halle is of the decided  
20 opinion that she would prefer to keep the affidavit sealed. Of  
21 course that's subject to your Honor's call. But the fact of  
22 the matter is, we don't really feel like we have a dog in the  
23 fight as it relates to the bond itself. It's just the  
24 protection of Ms. Halle's interests.

25 THE COURT: I think given the seriousness of the

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1 issues that we are discussing and the importance of it, not  
2 only to Ms. Halle, but to Mr. Scott, that he ought, in  
3 fairness, to receive a copy of the affidavit.

4 So if you have a copy, could you please provide it to  
5 Mr. Devlin-Brown

6 MR. FOLLY: We just handed it over, your Honor.

7 MR. DEVLIN-BROWN: And I don't know if there is a way  
8 to send it to Mr. Garvin so that he and Mr. Scott can see it as  
9 well.

10 MR. DiMASE: I have everything prepared just for that  
11 purpose, so if you give me a moment, your Honor, I will e-mail  
12 Mr. Garvin.

13 THE COURT: Okay.

14 And I don't think that I am telling tales out of  
15 school if I were to simply state for the record that Ms. Halle,  
16 who provided cash surety on Mr. Scott's bond, wishes to be  
17 exonerated from the obligation of maintaining those amounts  
18 with the court. She wants no longer to serve as a surety to  
19 Mr. Scott. So I will give everyone an opportunity to read  
20 those documents and we will pick up.

21 MR. DiMASE: If I could ask Mr. Garvin, who is on the  
22 phone, when he has received those materials to just let us know  
23 that they went through.

24 MR. GARVIN: Yes, I will. I am expecting them now.

25 MR. DiMASE: Thank you.

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1 MR. DEVLIN-BROWN: And, your Honor, I don't mean to  
2 delay the court at all, but we have just received these  
3 documents with numerous exhibits, the affidavit. I would like  
4 at least ten minutes if we can have that to --

5 THE COURT: Absolutely. I will go back. I will come  
6 back out in ten minutes.

7 (Recess)

8 THE COURT: Mr. Devlin-Brown, I trust you have had an  
9 opportunity to review those document?

10 MR. DEVLIN-BROWN: We have had some opportunity, your  
11 Honor.

12 THE COURT: Very well. So now that the folks have  
13 reviewed these documents -- and I understand, Mr. Devlin-Brown,  
14 that you have also received a copy of the government's letter  
15 to me dated yesterday?

16 MR. DEVLIN-BROWN: Yes.

17 THE COURT: Very well, then. Given that, Mr. DiMase.

18 MR. DiMASE: Your Honor, just so the record is clear  
19 about the documents that were provided to counsel for  
20 Mr. Scott, we provided the filing by Mr. Taylor and the  
21 attached exhibits, including the affidavit of Ms. Halle. We  
22 also provided our letter of February 12, 2020 responding to  
23 that application, and then we provided our letter dated  
24 yesterday, March 11, 2020 as well, so all of those documents  
25 have been turned over.

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1 THE COURT: Okay. Mr. DiMase, based on the letter, it  
2 appears clear; but, for the record, what's the government's  
3 position on Mr. Scott's continued bail?

4 MR. DiMASE: Your Honor, in short, in light of the  
5 heightened standard presentence and the egregious violations of  
6 the bail conditions committed by Mr. Scott as laid out in the  
7 government's letter, the government is seeking detention at  
8 this point.

9 THE COURT: Okay.

10 MR. DiMASE: I can expand on that, obviously, but  
11 that's the bottom line.

12 THE COURT: Why don't you, because I know that the  
13 government made the request that he be remanded right after  
14 trial, and at that time I refused that request. What has  
15 happened since?

16 MR. DiMASE: Well, one thing, your Honor, is I know  
17 that the car sale was something that was raised in the  
18 immediate after-trial bail proceeding. I think we have laid  
19 out a few more facts relevant to that sale, and I think it is  
20 particularly important, as the court was probably aware, but  
21 still, to understand Scott's level of knowledge there, it's not  
22 just merely that that car was subject to a seizure warrant or,  
23 as the government failed to point out immediately after the  
24 trial, that it was also listed in the government's forfeiture  
25 bill of particulars -- that fact was not put on the record

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1 immediately after the trial. I don't think we had recalled  
2 that, but that's a public filing on the docket sheet that  
3 Mr. Scott would have easily had access to. But more  
4 fundamentally, he knew he bought the car with OneCoin proceeds,  
5 and there is an exhibit from the trial that shows the money  
6 going from OneCoin accounts to the car, and we have proved that  
7 at trial. That is effectively a separate crime, engaging in  
8 monetary transactions with criminal proceeds, and the proof of  
9 his knowledge is not just the fact that it was subject to a  
10 seizure warrant or that it was in the government's bill of  
11 particulars, it is the evidence that he knew that was the money  
12 he was using to buy it. And I think it really just bears  
13 noting that that ultimately is money that should be going back  
14 to OneCoin victims. He is taking that money that should go  
15 back in restitution and he is using it for himself and all  
16 while it is subject to the seizure warrant for that very  
17 reason, subject to the forfeiture bill of particulars for that  
18 very reason. So I don't want to belabor that point --  
19 obviously we raised it after the trial -- but I think there are  
20 some details there that we didn't really address immediately  
21 after the trial.

22 Then there are a whole host of other facts that have  
23 developed, pretty much all of which are following trial.

24 First of all, there is the information provided by  
25 Ms. Halle. Obviously the court has her affidavit. I think it

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1 is fair to say that she believes that she is also now a victim  
2 of fraudulent conduct committed by the defendant, that she has  
3 lost faith in him, and that that is effectively the reason she  
4 wants out of this bond. I think she is concerned that not only  
5 will she be never getting any of the money she has given  
6 Mr. Scott back for loans and purported investments, now she may  
7 also lose the \$750,000 she graciously agreed to put up for him  
8 as a friend when this case started. And so she wants to  
9 protect at least that portion of the money; and, frankly, the  
10 government does not object to that in part because we don't  
11 feel it would be appropriate to victimize her in that way based  
12 on Mr. Scott's conduct. And ultimately at this stage I think  
13 it's fair to say that we view her as a victim of ongoing  
14 conduct by Mr. Scott and that she should get this money back.

15 But I think the most obvious example of that is this  
16 loan which Mr. Scott provided to her -- or which Mr. Scott  
17 received from her of \$500,000 with a promise that he would pay  
18 it back within six months. The six months has passed and  
19 Ms. Halle has not seen any of that money.

20 She also has an investment in one of the properties  
21 that's subject to forfeiture in this case. She made a \$1  
22 million investment in that before Mr. Scott was arrested. She  
23 has not seen any revenue from that investment, and --

24 THE COURT: What type of property is that?

25 MR. DiMASE: So if you will recall, your Honor, I



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1 think if you flip to Exhibit F attached to the government's  
2 filing, so this is a beachfront property located in Barnstable,  
3 Massachusetts, on Cape Cod, that Mr. Scott purchased as an  
4 investment property; and, as reflected in the financial  
5 tracing, the government traced over \$2 million of OneCoin fraud  
6 proceeds used to make that purchase. Ms. Halle was also asked  
7 to contribute money as a purported investment into this  
8 investment property. As I said, my understanding is that she  
9 has not seen any revenue from that.

10 And in part, in an effort to promise payment of money  
11 to Ms. Halle, Mr. Scott provided her with a proposed mortgage  
12 on this property, one of the properties he bought with OneCoin  
13 proceeds, and that was just in December 2019. That would have  
14 been about ten months after the property was listed in the  
15 government's forfeiture bill of particulars in this case. And,  
16 again, I think, fundamentally, going back to the main point  
17 here, Mr. Scott himself was aware that this house was purchased  
18 with OneCoin proceeds and here he is offering, despite the fact  
19 that it's in a bill of particulars, a forfeiture bill of  
20 particulars, offering a mortgage to underlie a promissory note  
21 to Ms. Halle. Mr. Taylor may speak to this further, but my  
22 understanding that Ms. Halle did not agree to that proposal.  
23 But that's only one example of Mr. Scott essentially using  
24 mortgages against properties subject to forfeiture to  
25 substantiate promissory notes of money he owes to other

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1 people.

2           So the second example is a contractor working on the  
3 31 Dale Avenue property. That property is Attachment H to the  
4 government's filing of last night, another even nicer  
5 beachfront property. This one into which the government traced  
6 somewhere in the ballpark of 3.5 to \$4 million of OneCoin  
7 proceeds used to make that purchase. This property has needed  
8 quite a bit of work. There has been a contractor working on  
9 the property. One of the government's -- one of the  
10 attachments here relates to a \$300,000 payment made from a  
11 Cayman Island bank account to that contractor for work on this  
12 property in April of 2019. And then apparently, when Mr. Scott  
13 was in negotiations with other money owed to the contractor, he  
14 offered a mortgage against this property to cover 250,000  
15 ballpark dollar debt to the contractor, which in fact that  
16 mortgage was effectuated and a promissory note apparently was  
17 provided to the contractor for that amount based on a mortgage  
18 on this property. And, again, just to be clear, this was in  
19 the government's bill of -- forfeiture bill of particulars in  
20 February of 2019, so ten or eleven months before he mortgaged  
21 it; and, again, he knew that this property was purchased using  
22 OneCoin money. So he is offering up, as security against debt,  
23 properties which should be forfeited and sold, again, to go  
24 back to restitution of OneCoin victims. That's the bottom  
25 line.

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1           So we have somebody who has violated a court order  
2 insofar as he sold a car under a seizure warrant. He has  
3 defrauded his own suretor who he has -- who graciously put up  
4 money for his bond. He has attempted to mortgage two  
5 properties subject to forfeiture and actually mortgaged one.

6           And I think this last point is not as important, but  
7 it does bear noting that the government found out about this  
8 violation of the home incarceration condition shortly after the  
9 trial only from reading a blog post online, which we frankly  
10 thought couldn't be true, that he had gone to a restaurant with  
11 security guards days after the trial, after this court  
12 subjected him to a home incarceration condition. But the  
13 government reached out and learned from Pretrial Services that,  
14 yes, in fact, because he was wearing a GPS device, they were  
15 able to tell where he was that day, and that he had provided a  
16 reason to leave his house that day of visiting Mr. Garvin, that  
17 he spent about an hour with Mr. Garvin, and then the GPS shows  
18 that he went to this restaurant for about two hours to have  
19 dinner under the false pretense of visiting with his lawyer  
20 while under a period of home incarceration.

21           So like I said, I don't think that's of paramount  
22 importance, in terms of the much more serious violations here,  
23 but it shows that this is somebody who is not willing to follow  
24 the court's clear directives and bail conditions in this case.  
25 In addition to committing crimes, he is flagrantly violating

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1 those very basic conditions.

2 I would also say, your Honor, that we have just  
3 looked, based on a question posed by Mr. Devlin-Brown just  
4 before the proceeding, and actually it appears that the account  
5 in the Cayman Islands referenced in Exhibit I, that -- from  
6 which \$300,000 was transferred to the contractor in April of  
7 2019, that that account at First Caribbean Bank was also  
8 subject to restraint in a restraining order that was provided  
9 to Mr. Scott in discovery, and that was -- that account would  
10 have also been included in the government's forfeiture bill of  
11 particulars in this case on the publicly filed docket. So in  
12 that case another violation of a clear court order which we  
13 are -- we were not aware of until we checked this afternoon.

14 THE COURT: Okay.

15 MR. DiMASE: So that leads me to one other point, your  
16 Honor. The standard for presentence bail is very heightened.  
17 It flips the presumption to the defendant or the burden to the  
18 defendant, I should say. It is on the defendant to show by  
19 clear and convincing evidence that he does not pose a risk of  
20 flight or a danger to the community. There is another statute  
21 applicable here, which is 3148(b), and that statute provides  
22 that there is probable cause to believe that while on release  
23 the person committed a federal, state, or local felony, a  
24 rebuttable presumption arises that no condition or combination  
25 of conditions will assure that the person will not pose a

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1 danger to the safety of any other person or the community.

2 And so to be clear, all of this, whether pretrial or  
3 posttrial, Mr. Scott did, while on bail. Some of it he did  
4 after being convicted of serious offenses carrying a 50-year  
5 statutory maximum and a 50-year guidelines sentence. There is  
6 both a risk of flight, in particular because Ms. Halle is  
7 requesting that her money be returned and that was a critical  
8 component of the pretrial bail package under a very -- a much  
9 less heightened standard. But it is not just risk of flight.  
10 There is a danger here, a financial danger, and it is the  
11 danger that is addressed by 3148(b). This is somebody who is  
12 committing financial crimes and using OneCoin victim money for  
13 himself all while on bail or after being convicted of fraud  
14 crimes. He poses a real danger to the community, although I am  
15 not arguing here physical danger, but financial danger, and  
16 that is, I think, a real concern here, your Honor, given the  
17 pattern of conduct before the court.

18 So on the grounds of those very egregious violations  
19 of bail conditions, his commission of new crimes while on bail,  
20 and in some cases after trial in this case, the government  
21 believes that detention is the only appropriate option at this  
22 stage, your Honor.

23 THE COURT: Thank you, Mr. DiMase.

24 I suppose that I should, as a procedural matter, deal  
25 with the request of Ms. Halle to be exonerated. Mr. Taylor,

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1 did you wish to be heard any further on that?

2 MR. TAYLOR: If the court has any questions it would  
3 like me to direct myself to, fine; otherwise, no, sir, I'm  
4 satisfied.

5 THE COURT: Very well. And I understand from  
6 Mr. DiMase the government does not object.

7 Mr. Devlin-Brown, is there any reason why I should not  
8 exonerate Ms. Halle?

9 MR. DEVLIN-BROWN: Your Honor, our chief complaint  
10 here with respect to this request is really the same as with  
11 the revocation of bail in that we would like some time to  
12 respond. Do I know off the top of my head what the standard is  
13 for a suretor to be removed from a bond? I don't. Do I know  
14 what the facts and circumstances are that are in this affidavit  
15 that has just been provided to me? I don't. So I would like  
16 time to address that issue and then, also, to the extent the  
17 court is inclined to remove her, time to provide a proposed new  
18 suretor or other new bail conditions to address any decision by  
19 the court to take her off the bond.

20 THE COURT: I'm going to take her off the bond.  
21 Again, whether or not what she puts forth in her affidavit  
22 amount to a separate and independent crime, they certainly  
23 amount to, at least on the part of Ms. Halle, a complete lack  
24 of confidence in Mr. Scott's ability and willingness to  
25 continue to appear as required to court. She has put up a

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1 substantial amount of money based on representations that  
2 Mr. Scott made. Apparently Mr. Scott has again and again  
3 failed to meet the promises that he made to her, and it seems  
4 unduly harsh for this court to continue to hold her to the  
5 obligation that she made to Mr. Scott many months ago. So she  
6 will be exonerated.

7 That, of course, removes from the bail package  
8 supporting Mr. Scott's being out on bail the substantial piece  
9 of it, which was cash in the amount of \$750,000. I know from  
10 my reading of the transcripts before the magistrate, when they  
11 were handled, the bail applications, that that was a  
12 significant part of the bail package, particularly given  
13 Mr. Scott's status as a dual citizen of a country that does not  
14 extradite its own citizens. The government has repeatedly made  
15 that argument, and the very substantial bail package that was  
16 established at the time certainly gave me some comfort that it  
17 was sufficient and certainly that Mr. Scott, by continuing to  
18 appear in court, by sitting through the trial, appeared not to  
19 be a flight risk.

20 The admitted lack of confidence on Ms. Halle's part in  
21 continuing to vouch for Mr. Scott, along with the incidents  
22 highlighted by the government in its letter to me of March 11,  
23 would show that Mr. Scott continues to use some of these assets  
24 which are subject to forfeiture, that were subject to court  
25 orders, as though they were his own, after the bail conditions



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1 were imposed, after sitting through trial, after being  
2 convicted suggests to me that he not only is a flight risk but  
3 is an economic danger to the community and, accordingly, the  
4 bail is revoked, and I would require Mr. Scott to  
5 self-surrender to the appropriate facilities tomorrow, Friday,  
6 March 13, in Coral Gables. I don't know what that facility is.  
7 I'm going to have to rely on the government to provide  
8 Mr. Scott's attorneys with that information, but he should  
9 report there no later than 9 a.m. tomorrow morning.

10 Mr. Devlin-Brown.

11 MR. DEVLIN-BROWN: I'm sorry, your Honor. I did  
12 address the court on the issue of Ms. Halle being removed from  
13 the bond, but I hadn't been aware your Honor was asking for us  
14 to argue against the government's position on revocation of the  
15 bond, and we do wish to be heard on that issue.

16 THE COURT: I'm happy to have you make your record,  
17 Mr. Devlin-Brown.

18 MR. DEVLIN-BROWN: Okay. Thank you, your Honor.

19 So obviously it is a very serious -- these are serious  
20 allegations, and we are not disputing that at all, your Honor.  
21 However, it is a serious decision your Honor has to make. Even  
22 if your Honor were to at the end of the day sentence Mr. Scott  
23 to some period of jail, there is a tremendous difference  
24 between sentencing someone who has gone through the BOP  
25 designation process, can self-surrender at an appropriate

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1 security facility, appropriate to addressing medical needs, to  
2 throwing someone in on short notice into a jail system, whether  
3 it's in Miami or New York, particularly, and I guess to be  
4 transferred from Miami to New York, particularly at a time when  
5 we have a virus that is spreading and posing risks to the jail  
6 system. And that won't just be a risk to Mr. Scott now when he  
7 is in. It will be a risk that will extend beyond through any  
8 period of incarceration.

9 So I think that's a very serious thing, and so I do  
10 wish to be heard a little bit further on why we don't think  
11 that's appropriate.

12 So first of all, in terms of the answers to what the  
13 government has raised, we can't answer all of these questions  
14 now. This is a very detailed document. I'm not sure why it  
15 was provided only under seal and *ex parte*, and we can only see  
16 it now right before the court begins. I guess the government's  
17 position is there is some flight risk. I don't see the flight  
18 risk.

19 And beyond that, there are responses. There are  
20 things we would like to do to respond. Just to give you some  
21 examples, a short period where we could respond and at least  
22 confer with our client, look up related records, and there are  
23 a couple of things we would do. First of all, there are  
24 allegations that funds went from various accounts to -- that  
25 are allegedly linked to OneCoin to certain properties where

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1 there were mortgages of properties or a car was sold. We would  
2 like to look into the details of that, understand more about  
3 them, make sure the government's statements that these are  
4 OneCoin funds are correct, and also, crucially, look into the  
5 issue of what our client had notice of.

6 THE COURT: Wasn't that established at trial?

7 MR. DEVLIN-BROWN: Which point, your Honor?

8 THE COURT: The fact that these assets were acquired  
9 by OneCoin funds.

10 MR. DEVLIN-BROWN: That may have been -- well,  
11 actually I don't know that -- there wasn't tracing each of  
12 these assets I'm not sure at trial, but some of the conduct the  
13 government is pointing to happened before trial. Some of the  
14 conduct the government is pointing to with respect to the car,  
15 for example, that allegation involved a sale that was done I  
16 believe in June of this year.

17 THE COURT: I'm sorry. I thought that you were making  
18 the point that some of these transactions that are addressed in  
19 the government's March 11 letter may not have been used with  
20 OneCoin funds, and my question was, wasn't it established at  
21 trial that these assets, including the homes, were purchased  
22 with OneCoin funds? I may be mistaken.

23 MR. DEVLIN-BROWN: I don't know that it was  
24 established that each and every one of these assets was  
25 purchased solely with OneCoin funds. We also have filed a Rule

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1 29 that addresses the issue of whether funds from accounts that  
2 had no U.S. investors or no U.S. investments are appropriately  
3 wire fraud as an SUA to money laundering. But the crucial  
4 issues for bail, as I thought the court was perhaps suggesting,  
5 that Mr. Scott, in taking actions after the trial of these  
6 assets, would have himself had a state of mind that this was  
7 clearly improper or criminal conduct. This is conduct he  
8 engaged in well before trial. And it's not clear, and, again,  
9 we would like to respond, that Mr. Scott had awareness that  
10 these were things that he was not allowed to do.

11 For example, at the end of the -- and I can't be  
12 comprehensive here because I'm just sort of looking on the fly  
13 at these, but at the end of the last trial, the only trial, the  
14 government made the point that the car had been disclosed to  
15 Mr. Scott through a discovery letter, you know, that they were  
16 having some seizure of the car. From Mr. Scott's perspective,  
17 the government agents came. They took certain cars. They  
18 didn't take other cars. We looked at the discovery letter the  
19 government referred to. It has document after document of all  
20 sorts of seizure warrants that were served on banks, served in  
21 his home. It wasn't meant to provide Mr. Scott with notice of  
22 these are things you cannot touch. It was discovery for  
23 counsel as to the affidavits and warrants that have been issued  
24 in the case. And the bill of particulars that Mr. DiMase  
25 referred to came subsequent to that. Anyway --

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1 MR. DiMASE: They came long before the car sale, to be  
2 clear.

3 MR. DEVLIN-BROWN: Yeah, you know, there is only so  
4 much I can do on the fly. I can't compete with Mr. DiMase  
5 because he has been able to brief this and research it. I  
6 would like a chance to do so. Mr. Scott would like a chance to  
7 do so. That's one thing we would like to address.

8 There are two other of their allegations or three,  
9 really, that are about what people have apparently told the  
10 government. It is a pretty serious thing to say that Mr. Scott  
11 defrauded Ms. Halle. And just, again, reading this on the fly,  
12 it seems the core fraud allegation is that Mr. Scott borrowed  
13 money from her, saying he would pay her back, and he didn't pay  
14 her back. That's not the first time in the world someone's  
15 borrowed money, maybe overoptimistically, hoping to pay it back  
16 and doesn't. That may be a civil issue. That doesn't mean  
17 it's a fraud unless there is intent at the time to defraud the  
18 person.

19 THE COURT: I agree entirely, which is why I was  
20 careful, I think, to make the point that even if these  
21 allegations were not independent crimes.

22 MR. DEVLIN-BROWN: Thank you, your Honor. And I  
23 understand your Honor's ruling with respect to that and  
24 Mrs. Halle. But to the extent that your Honor is thinking  
25 about using that to revoke his bond, I would like to look into

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1 the circumstances of what money was offered by Ms. Halle, what  
2 the terms were that Mr. Scott agreed to. We would want to talk  
3 to him about that and put in any sort of response.

4 The same thing is true about the contractor who  
5 apparently says he didn't know of any liens on this property.  
6 We would like to look into more about what work he did.  
7 Because, again, going off the top of my head, my basic  
8 understanding is that that was a house that was under  
9 construction at the time and needed emergency work on it. It  
10 was a project in development or it would be ruined for the  
11 winter. And I think the expense he put into it probably  
12 increased the value of the property. That's not a perfect  
13 defense to this at all, your Honor, but I think it's a relevant  
14 consideration, and it's something that we would like an  
15 opportunity to look at.

16 And the same thing goes for these allegations of him  
17 violating the conditions of his release through this dinner.  
18 That's something ordinarily when there is an allegation like  
19 that, you have a pretrial officer or someone who is bringing it  
20 and someone who we could look at the file and see what the  
21 evidence is. My understanding -- and, again, it is something  
22 we would like to investigate -- is that Mr. Scott did meet with  
23 Mr. Garvin on that occasion, that he then did have dinner, and  
24 the government discloses this at the end, it is essentially at  
25 his home, it's, you know, that's what they say, that Seasons 52

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1 Restaurant in Coral Gables, Florida, where he resides, or it is  
2 very close to his home. There have been other occasions -- I  
3 don't know about this one, your Honor. There have been other  
4 occasions where his pretrial officer has specifically permitted  
5 him to have meals going to and from legal, medical  
6 appointments, etc. So, again, it's a serious allegation --

7 THE COURT: I actually don't think that's a serious  
8 allegation, and it entered into my consideration not at all,  
9 the fact that he had this dinner.

10 MR. DEVLIN-BROWN: Okay. So those are the things we  
11 would like to do if we had more time. And as to why your Honor  
12 should give us some more time, there are basically two reasons,  
13 your Honor. One is, you can say a lot of things perhaps about  
14 Mr. Scott, you were at a whole trial involving Mr. Scott. One  
15 thing I think is very hard for anyone to say is that this is a  
16 man who, tail between his legs, knows he did something and is  
17 running away. This is not a man who is running away. This is  
18 a man who has maintained his innocence from the get-go, who  
19 fought this case at trial, who filed very extensive posttrial  
20 motions, who intends to appeal any adverse ruling from the  
21 court, who intends to engage in sentencing advocacy, so if he  
22 is not -- if he does have to face some period of incarceration  
23 he has an opportunity to argue as free as possible. This is  
24 not a man, even with these allegations, who is on the verge of  
25 going somewhere. That is one thing that I think should give



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1 your Honor a little bit of comfort in giving us more time.

2 And the other consideration, your Honor, really is  
3 this man's health. I made the general point at the beginning,  
4 but Mr. Scott is not a well man and, like some people perhaps,  
5 you know, he is perhaps not really addressing his medical  
6 problems until now as he is coming up for sentencing and  
7 realizes that the decisions that he makes medically now he may  
8 have to live with for some period of years.

9 He has long been diagnosed with sleep apnea, severe  
10 sleep apnea. He is now undergoing testing which,  
11 unfortunately, the doctors just had to cancel because -- these  
12 are Cape Cod doctors -- because of the coronavirus outbreak.  
13 But he is undergoing testing for heart disease. He is  
14 undergoing testing for whether his elevated white blood cell  
15 counts reflect a more serious infection or perhaps something  
16 even worse. He is in the middle of this process, and your  
17 Honor knows full well that the Bureau of Prisons does not  
18 provide adequate medical care, frankly, to anyone, and they  
19 certainly aren't capable of doing this sort of work.

20 So giving him the time, if he is not a risk of flight,  
21 to go through some of this, to get him diagnosed, so that he  
22 can go, if he has to be sentenced to jail, to the Bureau of  
23 Prisons with a record of what he has. Because he is not going  
24 to get that kind of diagnosis in the Bureau of Prisons. They  
25 are not going to send him to a prison hospital without some

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1 basis for doing so.

2 So that's what we would ask, your Honor. We don't  
3 think he is a risk of flight. We think there are responses we  
4 could at least investigate and give the court a fuller picture,  
5 and we think that putting him in jail now without that is going  
6 to do grievous damage to his health for a long period of time.

7 I would just ask -- I'm not with Mr. Scott. that was  
8 at our request, Mr. Scott's request. He is with Mr. Garvin  
9 now. I don't know if they have had any opportunity to speak  
10 right now. But if your Honor permits, I would like Mr. Garvin,  
11 to the extent he has anything further, to be permitted to  
12 speak.

13 THE COURT: Mr. Garvin, I'm happy to hear you.

14 MR. GARVIN: Yes, your Honor. I would join in what  
15 Mr. Brown said, what Arlo said, and I would like to add a few  
16 things that I have been scrambling here looking at the  
17 documents that the government has supplied. Respectfully, your  
18 Honor, it would seem to me that this is an important decision  
19 that should deserve hearing both sides presenting a cogent  
20 argument. The government has undoubtedly taken days, if not  
21 weeks, to put together their presentation; and giving us  
22 literally minutes to put together our presentation, I don't  
23 think would be fair and is just.

24 But let me go to a couple of things that I have  
25 scrambled to point to.

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1           The funds that were invested, the government states  
2           that there was an offer in April of 2019, I believe, to give a  
3           mortgage to Marietta Halle of \$300,000. That transaction never  
4           went through. The amount of money of \$250,000 that went to the  
5           contractor, Mr. Scott did not have, from what I can tell, the  
6           ability to pay the contractor, but there was a determination by  
7           the contractor that if a certain amount of work was not done,  
8           the home would likely through the winter incur substantial  
9           damage and ultimately, when the house is in fact sold for  
10          restitution, that the amount that would be received would be  
11          substantially less than if the house had this minimal amount of  
12          work done to preserve it from being damaged. So this is a case  
13          where I don't argue that it is correct, but it is a case that  
14          was well meaning, which was to preserve an asset, which is one  
15          of the major assets that can be sold for restitution purposes.

16          With regard to the dinner, I know the court has stated  
17          that with the dinner it did not view it as significant, but  
18          Mr. Scott did attend that dinner with two of the people from  
19          our litigation team that could not make it to my office for  
20          that one-hour meeting. I had to leave, so Mr. Scott, on his  
21          way home, stopped and met them to discuss what he had just  
22          discussed with me and what work that needed to be done, and  
23          then he went home from there, which was approximately two  
24          blocks from his home is where the meeting occurred.

25          With regard to Ms. Halle and the investment that she

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1 made with Mr. Scott, that investment, I understand, and I would  
2 like to run it down, is, first of all, in real property and  
3 other business ventures, and then the loan is secured by a  
4 third party. So this is not a situation in which it is  
5 resolved that Ms. Halle has loaned money that will not be  
6 repaid. In fact, based on the limited amount of time I have  
7 had to scramble here, it appears that she may well be secured  
8 100 percent.

9 So, Judge, I would plead with this court, although I  
10 have heard the court has already stated out loud what it  
11 believes its ruling should be, I would ask for the court to  
12 give us an opportunity to research this over the weekend and to  
13 put together a presentation answering these five or six claims,  
14 accusations by the government, so that the court will be fully  
15 informed of all of the arguments prior to making a final  
16 decision, because the ramifications of this final decision are  
17 so significant. I would respectfully ask that the court afford  
18 us over the weekend to place in writing our response, and at  
19 that point the court may decide to issue the exact same ruling,  
20 but I believe that, knowing this court, that having heard the  
21 answers, it may have an effect.

22 THE COURT: Thank you, Mr. Garvin.

23 Mr. DiMase.

24 MR. DiMASE: Your Honor, I don't know if you would  
25 like me to respond point by point. There are some things that

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1 are preposterous in that defense.

2 The idea that he Mr. Scott should be able to take  
3 OneCoin victim money from an account in the Cayman Islands  
4 that's subject to a restraining order without contacting the  
5 government, just go ahead and do whatever he wants with it, if  
6 he had some concern about the property and wanted to negotiate  
7 its forfeiture, there are ways to do that legally.

8 I take it Mr. Garvin's defense on that particular  
9 point is that he just felt like that was the best thing to do.  
10 Even though it violated multiple orders, he did it without  
11 asking anybody's permission, and that's OneCoin victim money.  
12 There is a point to the restraining order. It is to get these  
13 fraud proceeds back to the victims who deserve it.

14 But, anyway, I don't know that it's worth going  
15 through one by one.

16 With respect to the car, Mr. Devlin-Brown's point that  
17 it was before the trial doesn't really hit the heart of the  
18 matter. The heart of the matter was he knew he bought it with  
19 OneCoin money when he sold it. So whether it was before or  
20 after trial I think is kind of irrelevant. He was on bail and  
21 he committed this violation.

22 Bigger picture, your Honor, this is a series of  
23 violations. It is a pattern of conduct. We have heard  
24 Mr. Devlin-Brown and Mr. Garvin pull apart individual things  
25 one at a time, but that's not really what this application is

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1 about. It's about a pattern of conduct while Mr. Scott is on  
2 bail in this case and some of which happened after he was  
3 convicted of serious federal fraud and money laundering  
4 offenses.

5 If the defense counsel want to put in something to the  
6 court after Mr. Scott is detained, they are obviously free to  
7 do that and it can continue to be litigated at that point.  
8 What they are basically asking is for Mr. Scott to be let out  
9 with no security at all because Ms. Halle is getting her money  
10 back and, in light of all of this conduct, the standard for  
11 bail pending release, that is simply not appropriate, your  
12 Honor, and the government continues to seek detention here.

13 THE COURT: Very well.

14 Mr. Moscato, I take it that you are in agreement with  
15 the government's position.

16 THE PRETRIAL OFFICER: That is correct.

17 THE COURT: I have listened to Mr. Devlin-Brown and  
18 Mr. Garvin obviously, and I understand that they are put in a  
19 difficult position because of their learning about some of  
20 these allegations now, and I certainly appreciate their  
21 position, but I also know, having gotten to know about  
22 Mr. Scott a little bit throughout the course of the trial, that  
23 he is a very sophisticated lawyer who conducted very  
24 sophisticated international transactions and knew or should  
25 have known that some of the activities in which he was

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1 engaging, both before and after the trial, in connection with  
2 properties that he knew or should have known were subject to  
3 forfeiture was wrong and he did it anyway. This is not a case  
4 where one can say, well, perhaps he didn't know that this  
5 house, pictures of which were entered in evidence at the trial,  
6 were not going to be part of this. So I just don't see that  
7 there is an innocent explanation that can be provided  
8 sufficient to overcome the burden that Mr. Scott has to prove  
9 that he should be provided with bail, particularly in light of  
10 Ms. Halle's withdrawal of the money that she has put in to the  
11 court to assure Mr. Scott's continued appearance. So I don't  
12 see how I can do anything under these circumstances other than  
13 revoke bail and require Mr. Scott's remand.

14 Now I'm happy to look at whatever submissions the  
15 defense wants to put in, but as for now, Mr. Scott is remanded.  
16 Again, I will expect the government to provide the appropriate  
17 information to him as to when and where -- when is tomorrow by  
18 no later than 9, but where. To the extent that I need to  
19 provide you with an order, I will do so. And Mr. Taylor, I  
20 would ask you to submit a proposed order exonerating  
21 Ms. Halle's bail.

22 MR. TAYLOR: Yes, sir.

23 THE COURT: And I will execute that order after my  
24 review.

25 Is there anything else?



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1 MR. GARVIN: Yes, your Honor. Your Honor, counsel for  
2 the government stated that they would not be opposed to the  
3 defense submitting in writing its position even though the  
4 court would have Mr. Scott surrender tomorrow. Would the court  
5 be inclined to review that submission if we did have a date for  
6 putting it in? I'm looking for some guidance as to a date.

7 THE COURT: I will review whatever you submit whenever  
8 you submit it, Mr. Garvin.

9 MR. GARVIN: Yes, sir.

10 And, your Honor, I know that I have belabored the  
11 point, and I apologize for not knowing when to stop, but I do  
12 hope the court appreciates that the funds with regard to the  
13 mortgage contractor, while we recognize that what Mr. Scott did  
14 was inappropriate because he should have asked the government  
15 for their consent, the money went into the property to keep the  
16 value of the property so that the property, which is one of the  
17 biggest pieces of assets that are available for restitution,  
18 would not go down in value. This is not a case where he took  
19 the \$250,000 and spent it on some lavish item for himself. The  
20 funds went into the property that increased the value of the  
21 property and maintained the property from being harmed, and I  
22 think that there should be some distinction recognized for  
23 that.

24 And as far as the situation with Ms. Halle, if  
25 Mr. Scott was given an opportunity, he may be able to replace

k3c2scoC kjc

1 Ms. Halle, but obviously if he surrenders tomorrow, that's  
2 going to -- at 9:00 that's going to greatly curtail his ability  
3 to speak to people about replacing Ms. Halle. So I know the  
4 court has ruled, but I would respectfully ask if Mr. Scott be  
5 permitted to surrender on Monday morning instead of tomorrow  
6 morning to enable him to find somebody to replace Ms. Halle and  
7 to respond to these allegations.

8 THE COURT: Mr. DiMase, any response to that?

9 MR. DiMASE: Yes. We strongly object to that, your  
10 Honor, and we request that the court stick with its ruling.

11 THE COURT: Very well.

12 Your application, Mr. Garvin, is denied except, to the  
13 extent that you wish to submit anything, like I said, I am  
14 happy to review anything that you submit.

15 Okay? We are adjourned.


16 oOo

# **EXHIBIT B**

Mark Scott pay off mortgage for 600 Coral Way, Unit 12, Florida  
Original purchase price: \$1,580,000.00 on January 14, 2015  
Payoff amount: \$1,000,794.66 on October 16, 2016

Sourced from exhibits: GX-1703A - GX-1703C, GX-1701A -  
GX-1701B, GX-716A-GX-716E, GX-3105, GX-3106, GX-3107,  
GX-3117, GX-717A-GX-717G, GX-3104



  
xxxx8576  
Bank of Ireland  
Fenero Tradenext Holding

\$500,000.00  
Escrow 133SL Additional  
retainer  
10/12/16


  
xxxx5001  
Bank of Ireland  
Fenero Tradenext Holding

\$500,000.00  
10/17/16

**Attorney's bank  
account**

  
xxxx9788  
**Sabadell / IberiaBank**  
**Nicole J. Huesmann PA**

\$1,000,794.66  
10/19/16

  
xxxx2190  
Cenlarfsprincetrn

Funds used to pay  
off mortgage